THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 9839 of 2007

Dated: 23.10.2007

Between:

Pesala Rosaiah & others.

... Petitioners

AND

The Special Deputy Collector (LA)
Somasila Project,Unit-IV, Rajampet,
Kadapa District.

... Respondent

Counsel for the petitioners : Shri D. Kodanda Rami Reddy

Counsel for the respondent : Government Pleader for
Land Acquisition

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 9839 of 2007

ORDER:-

This writ petition is filed for a writ of Mandamus to direct the respondent to refer the claims of the petitioners for enhanced compensation under Section 18 of the Land Acquisition Act, 1894 (for short, 'the Act') in terms of the order dated 01.12.1989 in Writ Petition No.5284 of 1989.

The petitioners' lands were acquired for construction of Somasila Project. On the ground that their request for reference under Section 18 of the Act was not accepted, they filed Writ Petition No.5284 of 1989 in this Court. The learned Single Judge by order dated 01.12.1989 disposed of the said writ petition along with a batch of similar writ petitions with the following direction:

> "When some other persons approached this court got the matter referred, this Court directed them to file applications for reference and the matter was directed to be referred to the Civil Court for consideration. But as the party were not diligent, they were laid to be not entitled to interest from the date of award till the date of reference.
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> Accordingly, the writ petitions are allowed and the petitioners are directed to file applications for reference. Within three months thereafter, matter be referred to the Civil Court. But the petitioners are not entitled to interest form the date of award till the date of reference. No

costs. Advocate's fee Rs.300/- in fact."

After having kept quiet for about 17 years, the petitioners filed the present writ petition with a complaint that order dated 01.12.1989 is not implemented.

Ordinarily, the writ petition ought to be dismissed on two grounds; namely, i) that the petitioners have not given any reasons whatsoever in filing this writ petition with a delay of almost 18 years after the disposal of the earlier writ petition on 01.12.1989, and ii) that if the earlier order was not complied with, the only appropriate remedy for the petitioners is to file contempt case seeking enforcement of the order. A writ petition for implementation of an earlier order of this Court seldom lies.

However, I am not inclined to dismiss the writ petition at this stage for the reason that in pursuance of the notice ordered by this Court, the Special Deputy Collector, Land Acquisition addressed a letter to the Government Pleader for Land Acquisition wherein it is stated that he is making verification (enquiry) into the claims of the petitioners and in view of the long lapse of time, it will take one month's time for completing the verification. In view of this letter the writ petition is disposed of with the following directions:

i) The Special Deputy Collector, Land Acquisition shall make verification of the claims, which shall be completed within a period of one month from today.

ii) If the Land Acquisition Officer is satisfied that the petitioners have made their applications for reference under Section 18 of the Act within the time stipulated under the provisions of the Act, he shall make a

reference of the same without further loss of time. Conversely, if he is satisfied that the applications are bared by time, he shall reject reference of the applications to the civil court.

As a sequel to disposal of the writ petition, WPMP.No.12469 of 2007 filed by the petitioners for interim relief is disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

Date: 23.10.2007
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